

# STATE AUDITOR'S OFFICE

## INSURANCE DIVISION

### DEPARTMENT DIVISION PROGRAM CONTACTS

The department, division, program director and chief financial officer for the department, division, program and their contact information are:

State Auditor	John Morrison	444-2040	<a href="mailto:jmorrison@mt.gov">jmorrison@mt.gov</a>
Deputy State Auditor	Gordon Higgins	444-5223	<a href="mailto:ghiggins@mt.gov">ghiggins@mt.gov</a>
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Central Management Administrator	John Huth	444-5438	<a href="mailto:johuth@mt.gov">johuth@mt.gov</a>

### WHAT THE DEPARTMENT, DIVISION, PROGRAM DOES

The Insurance Division regulates the insurance industry in Montana. Its duties include resolving insurance consumer inquiries and complaints about agents, coverage and companies; licensing and reviewing the rates and financial condition of insurance companies; collecting the insurance premium tax; approving forms used by insurance companies; licensing, testing, and administering a continuing education program for insurance agents; and investigating insurance code and rule violations. The office administers the Insure Montana Program, a two-part program that is designed to assist small businesses with the cost of health insurance, whether they have previously provided health insurance or not. The program is responsible for administering monthly assistance payments or tax credits to qualifying businesses.

### STATUTORY AUTHORITY FOR DEPARTMENT, DIVISION, PROGRAM

The Montana State Auditor is the Commissioner of Insurance pursuant to Montana Code Annotated, 2-15-1902, 2-15-1903, and 33-1-311.

### HOW SERVICES ARE PROVIDED

The Division is organized into 10 bureaus with the following functions:

The Rates & Forms Division of the State Auditor's Office is charged with reviewing insurance policies, contracts, certificates, applications, endorsements, riders and specific advertisements, rates and rules that are delivered or issued for delivery in the State of Montana that are subject to review by law. These "rates and forms" are reviewed for compliance with Montana Code and may not be delivered or issued for delivery in Montana unless the applicable rates and forms have been filed and either approved or acknowledged, depending on what the law requires, by this division. If a rate or form filing does not comply with Montana Code, the reviewer will contact the filer to attempt to assist them in correcting the deficiencies. If the deficiencies cannot be corrected, the filing will be disapproved.

The Rates and Forms Division has a Life and Disability Actuary and a Property and Casualty Actuary. In addition to reviewing rates that are required to be filed, the actuaries participate in financial examinations of insurers where required. All insurers doing business in Montana are required to file financial statements at least annually. Insurers are required to maintain adequate reserves to ensure solvency. The actuaries participate in financial examinations to evaluate the adequacy of an insurer's reserves. The actuaries also review parts of the form filings for compliance with portions of the law related to actuarial issues.

The State Auditor is a member of the board of the Montana State Board of Hail Insurance. The Board provides hail insurance for producers' crops in the state of Montana. The Property and Casualty Actuary provides technical expertise to the State Auditor in his/her duties as a Board member.

The Insure Montana Bureau was enabled by the Small Business Health Care Affordability Act (H.B. 667). As a result of the new law, tax credits were made available to help small business owners provide health insurance to their employees. In addition, an insurance purchasing pool was created to allow small businesses the opportunity to band together to negotiate lower prices. Insure Montana is a two-part program: One is a tax credit program that provides a refundable tax credit for small businesses to maintain coverage of employees and their families if they already offer health insurance. The other is a purchasing pool that offers premium assistance and premium incentives to encourage small businesses that don't currently offer insurance to begin providing coverage to their employees and employees' family members.

The Legal Division of the State Auditor's Office provides legal and investigative services in connection with administering and enforcing State regulation of the insurance and securities industries. The two sections, legal and investigations, operate to maintain the health and integrity of the securities and insurance industries in Montana and protect the consumers of both industries. The Legal Division provides legal services, as needed, in the licensing of producers, companies, and others providing securities and insurance products and services in Montana. The Legal Services Division is also responsible for investigation and legal representation in contested administrative cases related to company, broker, agent and producer administrative disciplinary actions, for related civil and criminal litigation and for drafting, adopting, interpreting and enforcing related legislation and rules.

The Insurance Investigations Bureau of the Montana State Auditor's Office is charged with investigating all aspects of alleged criminal and civil violations of the Montana Insurance Code. The Bureau also assists the Securities Department with investigations and training when requested and provides trial support in criminal and civil trials and hearings related to investigations of alleged criminal and civil violations of the Montana Insurance Code. It also provides training to law enforcement personnel regarding investigations of alleged criminal violations of the Montana Insurance Code, plus training to the general public regarding insurance fraud and other insurance-related matters. Finally, the Bureau provides support to Federal and other State agencies regarding investigations of alleged criminal and civil violations of the Montana Insurance Code.

The Captive Insurance Bureau of the State Auditor's Office is responsible for the regulatory guidelines of captive insurance companies domiciled in Montana. Functions include licensing companies, monitoring the solvency of the companies, performing field examinations of licensed captive insurers, providing technical assistance to industry and agency personnel, and regulating companies to ensure compliance with Montana Code. Captive insurance companies formed as risk retention groups also have to comply with the Federal Liability Risk Retention Act of 1986, so the bureau is responsible for ensuring compliance with Federal law.

The Examinations Bureau's primary function is to monitor the solvency of the 1400+ insurers authorized to conduct business in Montana. Solvency (the ability to pay claims) is monitored through the detailed analysis of insurer financial statements and by the on-site examination (audit) of insurers.

Secondary functions of the Examinations Bureau include, but not limited to: licensing domestic and foreign insurers; auditing the premium tax returns of 1400+ insurers; registering risk retention groups, purchasing groups, and discount medical care card providers; approving surplus lines insurers and credited reinsurers; and licensing third party administrators and premium finance companies.

Examinations: Section 33-1-401, MCA requires that the commissioner examine the affairs, transactions, accounts, records, and assets of each authorized insurer as often as the commissioner considers advisable, but not less frequently than every 5 years. Examinations are conducted by in-house examiners whenever possible. When required, Section 33-1-408(4) allows the commissioner to contract for exam services.

The Policyholder Services Division (PHS) of the State Auditor's Office is charged with mediating consumer issues with insurance entities that may arise from potential violations of Title 33 of Montana Code (insurance law) or that may arise from non-compliance with the terms of the consumer's contract of insurance. All consumer issues are reviewed by this department and mediated with the insurance company that the potential violation has been alleged against. Any violations of Insurance Code, policy provisions or case law will be addressed with the insurance company and corrected accordingly. If an insurance company refuses to make these corrections, the issues may be referred from PHS to our Investigations Division or Legal Department for further evaluation, but they are typically resolved or mediated through the intervention of PHS. Consumer education and seminar materials are also developed and presented by PHS.

The Insurance Services Bureau provides the oversight to the Insurance Division. The Deputy Insurance Commissioner has oversight responsibility for each of the Insurance Divisions Bureaus and provides agency policy and guidelines regarding Insurance oversight. The Deputy attends National Association of Insurance Commissioner meetings and insures that Montana policy and practices comply with guidelines set nation wide. This bureau also provides the expertise in health policy issues implemented by the State Auditor's Office. This bureau also provides the information technology services to the Insurance Division.

The State Auditor's Office (SAO) Information Technology department is dedicated to the delivery of information solutions that advance the tactical and strategic business objectives of SAO and the State of Montana. We specialize in custom programming solutions that address both enterprise and department needs. In addition to developing custom software, our SAO IT staff is dedicated to the delivery and integration of information technology products and services that meet the business needs of SAO's departments and their service partners by providing the infrastructure, emerging technologies, and associated services.

The Insurance Continuing Education Program has two responsibilities: review and approval of insurance continuing education courses and verification of biennial continuing education compliance by resident insurance producers, consultants and adjusters.

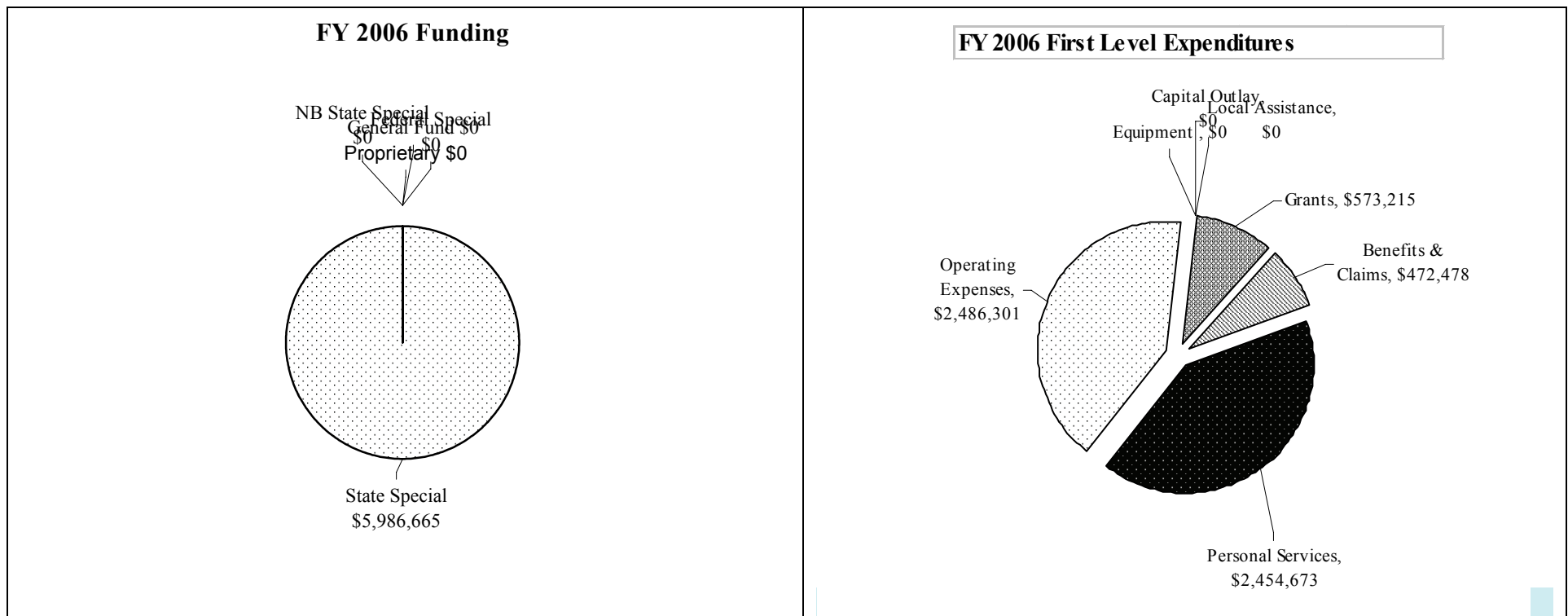
Insurance continuing education course submissions by sponsoring organizations are evaluated for compliance with statute and administrative rule. Those submissions in compliance are presented to the Insurance Continuing Education Advisory Council. Those courses recommended by the advisory council are presented to the Commissioner of insurance for approval. Courses may not be offered for Montana insurance continuing education credit unless approved. Course providers are contacted and assisted to revise those submissions not in compliance with filing requirements.

Resident insurance producers, consultants and adjusters submit continuing education compliance filings by the first day of their birth month demonstrating completion of approved credit hours. Licensees who do not comply with the requirement are unable to conduct insurance business until reinstated. Resident licensees who submit incomplete continuing education filings are contacted and assisted in the reinstatement process. If a license remains in a lapsed status for a year the license is terminated.

The Licensing Bureau's responsibilities include insurance licensing and renewal procedures for insurance producers, agencies, adjusters, motor club representatives, surplus lines agents, managing general agents, consultants, rental vehicle entities and viatical settlement brokers. Initial applications and renewal requests are reviewed to assure the appropriate forms and fees are submitted as required by the Montana Code. Once a license has been issued the licensing bureau is responsible for assuring the licensee renews their license on a timely manner and keeps us informed of any changes in their address or if they have committed a felony or had any administrative action taken against them in this state or any other state. By not complying a licensee's license could be suspended, revoked, terminated or fall into a lapsed status.

## SPENDING AND FUNDING INFORMATION

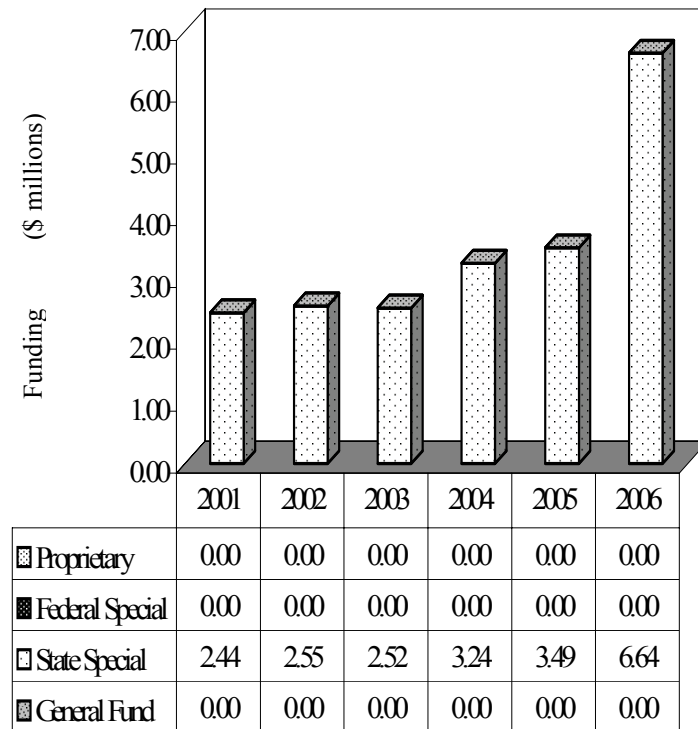
The following figures show funding and expenditure information for FY 2006 for all sources of funding of the Insurance Division. Because the figures include all sources of funding there are no direct relationships between these figures and appropriation levels presented in the Budget Analysis for the 2007 Biennium.



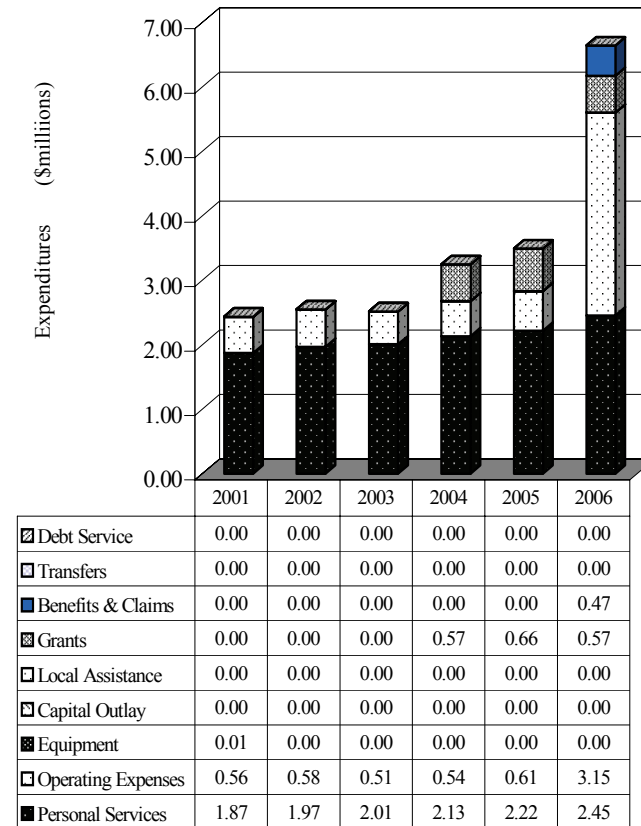
The above information does not include administrative appropriations. The department does not have any administrative appropriations. Departmental indirect charges are not included as expenditures or revenues in the above tables.

The following figures show funding and expenditures from FY 2001 through FY 2006, for HB 2 funding.

### Historical Funding



### Historical Expenditures



The change in revenues and expenditures between FY 06 and FY 08 resulted from present law adjustments and the implementation of the Insure Montana Program. The Insurance Division's budget had present law adjustments, the state pay plan, personal services adjustments and the rent increase for the old Shodair Children's Home and Hospital building as per the agency's contract. The budget for Insure Montana has increased from almost \$3 million in fiscal 06 to over \$10 million in fiscal 08.

# 2007 BIENNIUM NEW PROGRAM IMPLEMENTATION AND PROGRAM EXPANSION

## PROGRAM EXPANSION

The Division implemented or expanded several programs with state funding in the 2007 biennium. The Insure Montana Program was implemented in May 2005. The Insure Montana Program was enabled by the Small Business Health Care Affordability Act (H.B. 667) requested jointly by State Auditor John Morrison and Governor Brian Schweitzer in the 2005 legislative session. Insure Montana currently covers more than 3,400 people in the Purchasing Pool, and provides tax credits to business to help provide coverage to 3,555 more individuals.

### Goals: What does the program do?

Insure Montana has two components. One is a tax credit program that provides incentive for small businesses to maintain coverage of employees and their families if they already offer health insurance. The other is a purchasing pool with premium incentives to encourage small businesses that don't currently offer insurance to begin providing coverage to their employees and employees' family members

The program has three goals. The first goal relates to one program component, the other two goals to the other component.

1. Provide tax credits to small businesses that currently offer their employees health insurance.
2. Establish a purchasing pool through which small businesses can more competitively bid for health care coverage.
3. Provide premium assistance to the owners and employees of small businesses participating in the purchasing pool.

### Performance Criteria: How will progress be measured? (those in italics were successfully completed)

- *Have the first businesses covered by the Purchasing Pool by Jan. 1, 2006.*
- *Payments for Purchasing Pool businesses go through SABRHR System by March 1, 2006.*
- *Have 100 businesses covered by the Purchasing Pool by April 1, 2006.*
- *Have 300 businesses covered by Tax Credit Program by April 1, 2006.*
- *Have 200 businesses covered by the Purchasing Pool by July 1, 2006.*
- *Have 600 businesses covered by the Tax Credit Program by July 1 2006.*
- *Have 300 businesses covered by the Purchasing Pool by September 1, 2006.*
- *Reach threshold of 630 businesses covered by Tax Credit Program by August 1, 2006.*
- Have 450 businesses covered by the Purchasing Pool by January 1, 2007.
- Expend at least 95% of budget, maximizing number of businesses covered with that amount by April 1, 2007.
- Maintain at least 95% budget expended and maximum coverage each year program is in operation.
- Maintain maximum capacity of businesses covered by Purchasing Pool each year program is in operation.
- Maintain threshold of 630 businesses covered, or maximum capacity, by Tax Credit Program each year program is in operation.

### Risk: What would happen without Insure Montana?

This program has made it possible for more than 3,400 uninsured Montanans to start receiving health coverage through the purchasing pool. Another 705 businesses are already receiving tax credits that assist them in maintaining the health coverage they offer to 3,555 Montanans. (And this number is growing as the program expands.) That means almost 7,000 Montana men, women and children are already receiving health care coverage that may be lost without the support of Insure Montana, and even more will lose the chance for future coverage. Loss of coverage for these individuals would

be detrimental not only to themselves, but to the state as a whole as the costs of the care they will inevitably receive are absorbed by everyone else, driving up the cost of health care and health care insurance for everyone.

The additional FTE hired in the Rates and Forms Bureau has enabled the forms review process to reduce the turnaround time from an average of 6 months to an average of 20 days. In addition, the bureau has implemented an electronic filing system. All forms are now scanned and the public has an easier and more efficient means to review forms approved by the bureau. Overall the efficiency of the Rates and Forms Bureau has been improved due to the addition of this position.

The new Market Conduct Examiner in PHS is charged with statistical review of complaints to determine which insurers require a market conduct examination, as well as the completion of all market exams on all domestic companies every four years. The market conduct analysis required by the NAIC and collaboration with the other states and jurisdictions and attendance at all market conduct national meetings is part of this position. This position has set up the Montana Market Analysis Program. Market Conduct examinations have been conducted on Safeco Insurance Group, Blue Cross Blue Shield of Montana, New West Health Services, and the Montana Surplus Line Agents Association.

## **FTE**

The legislature approved appropriations for an additional 5 FTE in the 2007 Biennium. The following figure shows the positions and hire dates for the new FTE.

2007 Biennium FTE Hire Dates	FTE	Date
34100311	1.00	08/08/05
34100312	1.00	12/24/05
34100313	1.00	09/28/05
34100314	1.00	08/17/05
34100315	1.00	12/13/05

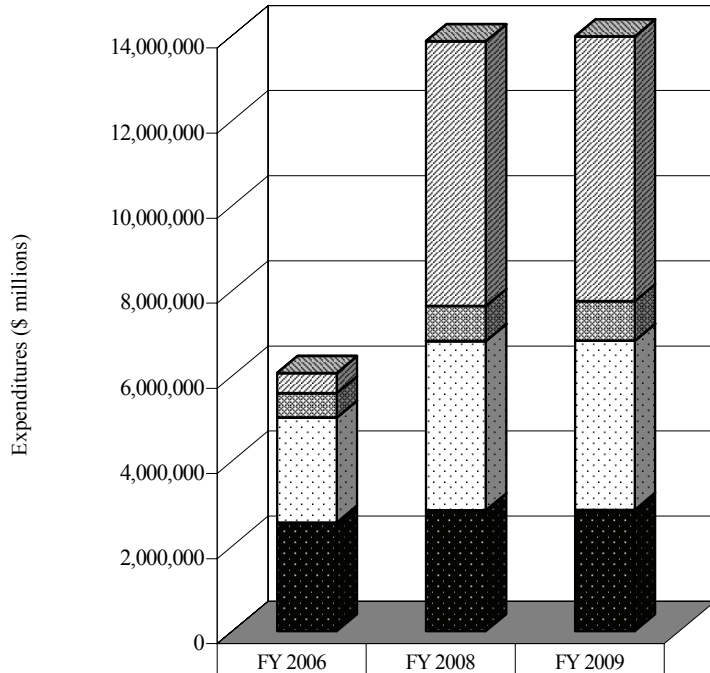
## **CORRECTIVE ACTION PLANS**

The Division had 2 legislative audit recommendations and associated corrective action plans in place during the 2007 biennium. Auditors recommended the office allow only eligible small employers to participate in the Insure Montana Program and the office pay compensation to the Insure Montana Program board members as required by state law. The Program has implemented the following components of the corrective action plan. The Insure Montana Program will seek additional legislative changes to title 33, Chapter 22, part 20, MCA to ensure that a small business health insurance purchasing pool fully complies with the Small Employer Health Insurance Availability Act. In addition the definition of eligible employee will be clarified. The two local board members have been compensated as required by state law. If a board member wishes to waive that right, the board member will sign a statement to that effect and this will be placed in the board member's file.

## **2009 BIENNIUM BUDGET**

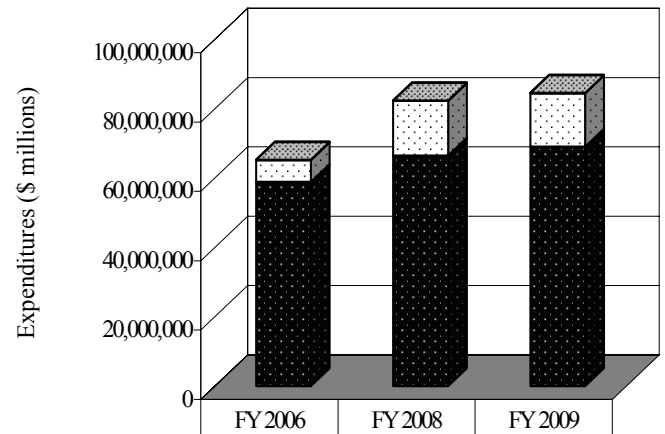
The following figures show the proposed HB 2 budget for the 2009 biennium.

**State Auditor's Office  
2009 Bienium HB2 Budget**



Debt Service	0	0	0
Transfers	0	0	0
Benefits & Claims	472,478	6,221,012	6,224,200
Grants	573,215	824,173	925,614
Local Assistance	0	0	0
Capital Outlay	0	0	0
Equipment	0	0	0
Operating Expenses	2,466,305	3,975,528	3,975,528
Personal Services	2,549,253	2,837,079	2,846,394

**State Auditor's Office  
2009 Bienium HB2 Budget**



Proprietary	0	0	0
Federal Special	0	0	0
State/Other Special	6,451,626	15,860,495	15,571,230
General Fund	58,820,187	66,465,000	69,006,230



## GOALS AND MEASURABLE OBJECTIVES

The following figure shows the department base year and budgeted biennium goals and performance measures that are associated with the proposed 2009 biennium HB 2 budget.

Department Name Division/Program Name		
Measurable Objectives for the 2009 Biennium		
Goal	Measurable Objectives	Current status of Measures
Ensure that the insurance industry maintains compliance with Montana law and regulation through effective enforcement and education.	<b>Rates and Forms</b> <ul style="list-style-type: none"> <li>Review and approve rates and forms within 60 day statutory deadline</li> <li>Weekly review of rates and forms filing</li> </ul>	
Maintain and achieve accreditation status from NAIC for various areas of insurance regulation through implementation of core competencies as defined by NAIC	<b>Investigations</b> <ul style="list-style-type: none"> <li>Investigate alleged violations of insurance code</li> <li>Conduct weekly review of investigations caseload</li> <li>Cooperate and assist local and federal criminal prosecutorial agencies</li> <li>Provide training for other criminal justice agencies on insurance fraud</li> </ul>	
	<b>Licensing</b> <ul style="list-style-type: none"> <li>License Insurance companies, Third Party Administrators, Captives and agents in 3-6 months</li> <li>Agent (producer) licenses within 1 day</li> <li>Daily assessment of licensing approvals</li> </ul>	
	<b>Policyholder Services</b> <ul style="list-style-type: none"> <li>Respond to consumer complaints</li> <li>Timely review, analysis and mediation of consumer complaint to ensure unfair claim practices are resolved</li> <li>Market conduct examinations every 4 years for domicile and as needed for others</li> <li>Update publications, consumer guides</li> <li>Weekly review of all consumer complaint inquiries for follow up, referral or closing</li> <li>Review of allegations for referral to investigations or legal department</li> <li>Consumer Education seminars</li> </ul>	
	<b>Legal</b> <ul style="list-style-type: none"> <li>Prosecute alleged violations pending to statutory regulations</li> <li>Legal case tracking system reviewed monthly</li> </ul>	

	<b>Exams</b> <ul style="list-style-type: none"> <li>• License insurance companies</li> <li>• Ensure solvency of insurance companies through financial examination every three-five years</li> </ul>	
	<b>Continuing Education</b> <ul style="list-style-type: none"> <li>• Monitor and approve continuing education programs</li> <li>• Track license compliance with continuing education requirements</li> </ul>	
	<b>Captives</b> <ul style="list-style-type: none"> <li>• License captive insurance companies within 45 days</li> <li>• Ensure solvency of insurance companies through financial examination every three-five years</li> <li>• Monitor captive insurance companies to ensure regulatory com</li> </ul>	
Increase access to affordable health insurance through policy and program development	<b>Insure Montana</b> <ul style="list-style-type: none"> <li>• Provide tax credits to small businesses that currently offer their employees health insurance</li> <li>• Establish a purchasing pool through which small businesses can more competitively bid for health care coverage</li> <li>• Provide premium assistance to the owners and employees of small businesses participating in the purchasing pool.</li> <li>• Maintain at least 95% budget expended and maximum coverage each year program is in operation</li> <li>• Maintain maximum capacity of businesses covered by Purchasing Pool each year program is in operation</li> <li>• Maintain threshold of 630 businesses covered, or maximum capacity, by Tax Credit Program each year program is in operation</li> </ul>	

## BUDGET AND POLICY ISSUES

The following budget or policy issues are included in the (department, division, program) budget submission to the Governor's Office.

## SIGNIFICANT ISSUES EXPANDED

The budget includes a request for 1.00 FTE to scan archived records and current records into a database for four bureaus in the Insurance Department. The request is for \$82,369 state special revenue for the 2009 biennium.

The Licensing and Rates & Forms Bureaus have been using "work experience volunteers" to scan archived records and current records into a database. The "work experience volunteers" are inconsistent and cannot work more than 90 days when the Career Training Institute is able to provide them. The inconsistency is leading to errors in the retention of our licensing and rates & forms records. For the past 18 months the agency has relied on several temporary employees when budget allows. The Insurance Department is requesting 1 FTE to be shared equally between these two bureaus until all the archived paper records have been saved in an electronic format. This FTE will also be used by two other insurance bureaus, Examinations and Policy Holder Services, to convert paper archived files to electronically preserved files. Ultimately this FTE will assure that all current records for Insurance Licensing, Rates & Forms, Examinations and Policy Holder Services are filed electronically daily.

Also included is a budget request for 1.00 FTE in the program to assist employers with the Insure Montana application process and to supplement other staff in the program with overall operational duties. Funding in FY 2008 is \$54,462 and FY 2009 is \$51,098 of state special revenue.

The Insure Montana program was created in the 2005 Legislative Session with 3 FTE and the program's workload is higher than initially anticipated. Another FTE is needed to assist in the overall operation of the program. This position will work with participating employers in assisting them with the application process for health insurance and work in developing other participating employer benefits. This position will also be responsible for researching grant opportunities, reinsurance concepts, plan design options and assist in the application for grants.

In addition the Insure Montana program is expanding its services for the program. The justification is included in the 2007 biennium information section of this document.